THE PARSI PUBLIC TRUSTS REGISTRATION ACT, 1936.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Application.
3. Definitions.
4. Appointment of Registrars.
5. Obligation to furnish particulars relating to public trusts.
6. Power of Registrar to hold inquiry.
7. Register of Parsi Public Trusts.
8. Amendment of entries in Register.
9. Stay of inquiry or entry in Register.
10. Entries in Register to be final subject to section 11.
11. Amendment of Register by order of Court.
12. Maintenance of accounts and their audit.
13. Trustees entitled to pay costs of audit, etc., from trust funds.
14. Inspection and copies.
15. Annual contribution from Parsi Public Trusts.
16. Parsi Public Trusts Administration Fund.
17. Application of Parsi Public Trusts Administration Fund.
18. Special audit.
19. Publication of list of Parsi Public Trusts.
20. Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.
    Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.
    Penalty for failure to comply with the order of Registrar.
    Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.
21. Cognizance of offences.
22. Registrar to be deemed a public servant.
23. Bar of prosecution of persons acting in good faith.
24. Recovery of sums due under this Act.
25. Power of Provincial Government to make rules.

BOMBAY ACT No. XXIII OF 1936.[1]

'[THE PARSI PUBLIC TRUSTS REGISTRATION ACT, 1936.]

[*31st December 1936.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 10 of 1944.*

Amended by Bom. 17 of 1945.†

An Act to make provision for the registration, publication and inspection of Trusts created or existing for a public purpose for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect thereof.

WHEREAS it is expedient to provide for the registration, publication and inspection of Trusts created or existing for a public purpose of a charitable or religious nature for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect of the same; AND WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

25 & 26 Geo. V, c. 61.

Short title and extent.

1. (*1*) This Act may be called the Parsi Public Trusts Registration Act, 1936.

(*2*) It extends to the whole of the Bombay Presidency.

(*3*) [2][The Provincial Government] may, by notification in the [3][*Official Gazette*], direct that this Act shall come into force on such date as may be appointed in the notification.

Application.

2. (*1*) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Parsi community or any section of such community and, having an annual gross income of not less than Rs. 1,000.

(*2*) [2][The Provincial Government] may by notification in the [3][*Official Gazette*] exempt any trust or any class of trusts from all or any of the provisions of this Act.

(*3*) In the case of a public trust of which the author belongs to the Parsi community and which is created or exists not solely for the benefit of the said community, [2][the Provincial Government] may, on application of such author, or, if such author is dead, of the majority of the trustees of such trust, by notification in the [3][*Official Gazette*] apply all or any of the provisions of this Act to such trust.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 348–349; for Report of the Select Committee, *see Bombay Government Gazette*, 1936, Part V, pp. 96–103; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*," *ibid.*

* This Act was re-enacted by Bom. 25 of 1948, s. 3.

† This Act was repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

(*4*) The provisions of the Bombay Public Trust Registration Act, 1935, shall not apply to any public trust to which any of the provisions of this Act apply. Bom. XXV of 1935.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context,—

(*1*) "Manager" means a trustee or any other person who for the time being either alone or in association with some other person or persons administers the property of any public trust.

(*2*) "Prescribed" means prescribed by rules made under this Act.

(*3*) "Public trust" means an express or constructive trust created or existing for public purposes of a religious or charitable nature.

(*4*) "Registrar" means a person appointed under section 4 to exercise the powers and perform the duties of a Registrar of Parsi Public Trusts under this Act.

(*5*) "Rules" means rules made under this Act.

(*6*) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act. II of 1882.

Appointment of Registrars.

4. [1][The Provincial Government] may appoint officers belonging to the Judicial Service not below the rank of a Subordinate Judge of the First Class or a Judge of a Court of Small Causes to be Registrars of Parsi public trusts for the purposes of this Act, and may define the district or area within which each of them shall exercise his powers and perform his duties.

Obligation to furnish particulars relating to public trusts.

5. (*1*) Every manager of the property of a public trust shall, in the case of—

(*i*) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act, and

(*ii*) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust,

submit to the Registrar within whose jurisdiction the whole or any substantial portion of the subject matter of such trust is situate or the property or funds of such trust or any substantial portion thereof are for the time being administered a statement in the prescribed form and accompanied by the prescribed fee, containing the following particulars :—

(*a*) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee,

(*b*) the description of the trust property, both moveable and immovable, sufficient for the identification thereof, and the approximate value thereof,

(*c*) the gross average annual income of such property estimated on the income of the three years immediately preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(*d*) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (*c*) relate,

(*e*) any other particulars as may be prescribed.

(*2*) A copy of the deed or instrument creating the public trust or such extract thereof as in the opinion of the Registrar sufficiently shows the origin, nature and object of such trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

[1] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*3*) Such statement shall be signed by the manager or his agent specially authorized in this behalf.

(*4*) Every person signing the statement shall verify it in the manner prescribed.

(*5*) The Registrar may for sufficient cause extend the period for furnishing a statement under this section.

Power of Registrar to hold inquiry.

6. (*1*) A Registrar may either on his own motion or upon the petition of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain—

(*i*) whether a trust is a public trust,

(*ii*) whether any property is the property of such trust,

(*iii*) whether the whole or any substantial portion of the subject matter of the trust is situate, or whether the property or funds of such trust or any substantial portion thereof are for the time being administered, within his jurisdiction,

(*iv*) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of trustee of such trust,

(*v*) the origin, nature and object of such trust,

(*vi*) the amounts of gross average annual income and expenditure of such trust, and

(*vii*) any other particulars as may be prescribed under sub-section (*1*) of section 5.

(*2*) The petition referred to in sub-section (*1*) shall show in what way the petitioner claims to be interested in the public trust and shall be signed and verified in the manner prescribed for the signing and verification of a statement under section 5.

(*3*) If it comes to the knowledge of the Registrar that a suit has been instituted in any Court in regard to any of the matters mentioned in sub-section (*1*), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Court's findings or orders in regard to such matters, until the suit is finally decided in that Court.

(*4*) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(*5*) On completion of the enquiry provided for in sub-sections (*1*) and (*4*), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matters as may have been decided in such suit.

(*6*) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters :— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath,

(*b*) compelling the production of documents and material objects,

(*c*) issuing commissions for the examination of witnesses,

(*d*) proof of facts by affidavits.

(*7*) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

Register of Parsi Public Trusts.

7. The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6, record entries in such form as may be prescribed in a register called the Register of Parsi Public Trusts and shall file the statement, if any.

Amendment of entries in Register.

8. (*1*) When any change occurs in any of the particulars recorded in the Register of Parsi Public Trusts, the manager shall, within six months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompanied by the prescribed fee. The provisions of sections 5 and 6 shall, so far as may be, apply to such statement.

(*2*) For the purpose of verifying the correctness of the entries in the Register of Parsi Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Register, the Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such inquiry.

(*3*) If the Registrar, after receiving a report under sub-section (*1*) and holding an enquiry, if necessary, under sub-section (*2*), or merely after an enquiry held under sub-section (*2*), is satisfied that a change has occurred in any of the particulars recorded in the Register of Parsi Public Trusts with regard to a public trust, he shall amend in the prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-section (*1*) along with the statement, if any, relating to the said trust filed under section 5.

Stay of inquiry or entry in Register.

9. (*1*) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public trust particulars of which have been recorded in the Register of Parsi Public Trusts by the Registrar of any other district or area.

(*2*) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, [1][the Provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under section 6 or 8 or act under section 7 in regard to such trust.

Entries in Register to be final subject to section 11.

10. (*1*) Entries made by the Registrar in the Register of Parsi Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act.

(*2*) Nothing in this section shall be deemed to bar in any way the right of any person aggrieved by any such entry to institute a suit in a court of competent jurisdiction in regard to any matter affected by such entry.

Amendment of Register by order of Court.

11. A Civil Court of competent jurisdiction deciding any question relating to any trust to which this Act applies or in respect of which any entry has been recorded in a Register of Parsi Public Trusts shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Parsi Public Trusts relating to the said trust in accordance with its decision.

Maintenance of accounts and their audit.

12. (*1*) Every manager of a public trust in respect of which an entry has been recorded in the Register of Parsi Public Trusts under section 6 shall keep regular accounts of all moveable and immovable properties, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust property and of all payments and alienations made, on behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) The accounts shall be balanced each year on the thirty-first day of March, or such other date, as the manager of any particular public trust may at his option choose in regard to such trust: provided that when such date is so chosen, the manager shall as soon as practicable intimate to the Registrar the date so chosen; provided further that the date so chosen may be altered only with the consent of the Registrar and subject to such conditions as he may think fit to impose. The accounts so balanced shall be examined and audited annually in such manner and by a person who is the holder of a certificate granted under section 144 of the Indian Companies Act, 1913, or by such persons as may be prescribed.

VII of 1913.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(*4*) Within six months after the thirty-first day of March, or such other date, as may be chosen by the manager in any particular case, under sub-section (*2*) of the year for which the accounts are balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto:

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note under this section.

Exception.—Nothing in this section shall apply—

(*1*) to any public trust in respect of which a scheme has been settled under section 92, Civil Procedure Code, 1908, and such scheme requires the submission of accounts of such trusts to the court and audit thereof by any person appointed or approved by the court, or

V of 1908.

(*2*) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator General or the Official Trustee.

Trustees entitled to pay costs of audit, etc., from trust funds.

13. Notwithstanding anything contained in the deed or instrument creating any trust, every manager may pay from the income of the trust property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 5 or section 6 or in respect of the preparation or audit of the annual accounts for the purpose of this Act.

Inspection and copies.

14. Any person who in the opinion of the Registrar has an interest in any public trust shall, on payment of the prescribed fee, be entitled to inspect in the prescribed manner or to obtain a copy of any statement of particulars or any other document furnished to the Registrar under section 5 or section 6 or any statement of accounts furnished to him under section 12 (*4*) or any audit report made on an audit under section 12 (*2*) relating to such trust.

Annual contribution from Parsi Public Trusts.

15. Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Parsi Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed:

Provided that the contributions prescribed under this section shall be fixed at rates in proportion to the gross income of the public trust but in accordance with a progressively diminishing scale.

Explanation.—Progressively diminishing scale shall, for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

Parsi Public Trusts Administration Fund.

16. For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Parsi Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area, namely :—

(*a*) any fees which may be levied under section 5, 8 or 14,

(*b*) contributions under section 15,

(*c*) any sums received by the Parsi Public Trusts Administration Fund from private sources,

(*d*) any sums allotted by [1][the Provincial Government] or by any local authority to the Parsi Public Trusts Administration Fund.

Explanation.—For the purposes of this section [2][the Greater Bombay] shall be deemed to be a district.

Application of Parsi Public Trusts Administration Fund.

17. The Parsi Public Trusts Administration Fund of a district or any area as created under section 16 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

Special audit.

18. It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order the cost of such audit to be paid by the trustee or manager from the income of the property of the public trust or out of the Parsi Public Trusts Administration Fund.

Publication of list of Parsi Public Trusts.

19. Every Registrar shall publish annually under his signature, in the [3][*Official Gazette*] and [4][if the Provincial Government so directs] in a newspaper published in the principal vernacular of, and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Parsi Public Trusts Administration Fund, in such form and on such date as [1][the Provincial Government] may prescribe.

Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.

20. (*1*) If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits a statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.

(*2*) If any manager fails or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the original by Bom. 17 of 1945, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by Bom. 10 of 1944, read with Bom. 25 of 1948, s. 3.

(*3*) If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act, such person shall on conviction be punishable with fine which may extend to Rs. 100. Penalty for failure to comply with the order of Registrar.

(*4*) Any Court may, in passing an order of conviction and sentence for any of the offences under sub-section (*1*), (*2*) or (*3*), specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified : Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failure to do so and applies for extension of the period specified under this section, the Court may, if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

21. (*1*) No prosecution under this Act shall be instituted except on the complaint of the Registrar within whose jurisdiction the whole or a substantial portion of the property of the public trust in respect of which the offence is committed is situate or within whose jurisdiction the property or funds of such trust or any substantial portion thereof are for the time being administered. Cognizance of offences.

(*2*) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence under this Act.

22. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Registrar to be deemed a public servant.

XLV of 1860.

23. No action for damages and no prosecution shall lie against any person for anything which is in good faith done or intended to be done under this Act. Bar of prosecution of persons acting in good faith.

24. All sums due under this Act shall be recoverable as arrears of land revenue. Recovery of sums due under this Act.

25. (*1*) [1][The Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act. Power of Provincial Government to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely :—

(*a*) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5 (*1*).

(*b*) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5 (*1*), clause (*e*).

(*c*) Prescribing the manner in which the statement furnished to the Registrar shall be verified under section 5 (*4*).

(*d*) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(*e*) Prescribing the form of Register of Parsi Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8 (*3*).

[1] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*f*) Prescribing the form of the statement reporting a change and the fee payable along with such statement under section 8.

(*g*) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12 (*1*).

(*h*) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (*2*) and 18.

(*i*) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12 (*4*).

(*j*) Prescribing the fee payable for the inspection of the Register of Parsi Public Trusts under section 14.

(*k*) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such inspection under section 14.

(*l*) Prescribing the fee payable for obtaining certified copies of entries in the Register of Parsi Public Trusts and of documents filed with the Registrar under section 14.

(*m*) Prescribing the amount of contribution payable by a Public Trust and the date and the manner of such payment under section 15.

(*n*) Prescribing the objects in addition to those specified in section 17, to which the Parsi Public Trusts Administration Fund shall be applied under the said section.

(*o*) Any other matter not specifically provided for in this Act, but which in the opinion of [1][the Provincial Government] is necessary for carrying into effect the provisions of this Act :

Provided that the rules made under clauses (*a*), (*f*), (*j*) and (*m*) shall provide for such adjustment from time to time of the rates of fees payable under sections 5, 8 and 14 and the contributions payable under section 15 in respect of the public trusts in any district or area as not ordinarily to leave any surplus in the Parsi Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of [1][the Provincial Government] for payment of the charges and expenses referred to in section 17.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [2][*Official Gazette*].

(*4*) Rules made under this section shall be laid [3][before each Chamber of the Provincial Legislature] at the session [4][thereof], next following and shall be liable to be modified or rescinded by a statutory motion [5][carried in both the Chambers] and such rules shall, after notification in the [2][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [1][the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [1][the Provincial Government] may, by notification in the [2][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

[3] The words " before each Chamber of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council ", *ibid.*

[4] The word " thereof " was substituted for the words " of the said Council ", *ibid.*

[5] The words " carried in both the Chambers " were substituted for the words " of the said Council ", *ibid.*